

WHEELER LOGGING, INC.,)	AGBCA No. 2001-113-1
)	
Appellant)	
)	
Appearing for the Appellant:)	
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William G. Apger, Esquire)	
1639 Bird Street)	
Oroville, California 95965)	
)	
Appearing for the Government:)	
)	
Wen Yen, Esquire)	
Office of the General Counsel)	
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DECISION OF THE BOARD OF CONTRACT APPEALS

October 24, 2002

Before POLLACK, VERGILIO, and WESTBROOK, Administrative Judges.

Opinion for the Board by Administrative Judge POLLACK.

This appeal arose out of Contract No. 051942, Rucker Insect Salvage Sale, between Wheeler Logging, Inc. (Appellant) of Susanville, California, and the U. S. Department of Agriculture (FS), Pacific Southwest Region, Modoc National Forest, Big Valley Ranger District, Alturas, California. The appeal is from a Contracting Officer's decision of September 15, 2000, where the FS assessed \$113,062.45 as due from the Appellant for the alleged failure of the Appellant to complete his contract. The Appellant filed a timely appeal dated December 7, 2000.

The parties had no dispute over the fact that Appellant did not complete the sale. However, there were disputes over the value of the timber, the description of the timber as wood fiber and whether the sale included some wood product material of a quality that would be marketable as sawlogs.

The Board has jurisdiction to decide the timely-filed appeal pursuant to the Contract Disputes Act of 1978 (CDA), 41 U.S.C. ' ' 601-613, as amended.

During the spring and into the summer of 2001, the parties engaged in discussions in an attempt to reach settlement. That proved to be unsuccessful. Thereafter, the Board set a schedule and a hearing was set for May 2002, in Susanville, California. The Board and parties met for the hearing on May 15, 2002, and prior to going on the record, the Board and parties discussed various aspects of the case. As a result of such conversations, the parties were able to reach an agreement.

On that same day, the parties prepared and signed a Request for Dismissal, which was forwarded to the Board under cover of May 23, 2002. The dismissal called for dismissing the appeal with prejudice.

DECISION

The parties have reached a settlement in this matter. The appeal is therefore dismissed with prejudice.

HOWARD A. POLLACK
Administrative Judge

Concurring:

JOSEPH A. VERGILIO
Administrative Judge

ANNE W. WESTBROOK
Administrative Judge

Issued at Washington, D.C.
October 24, 2002.